

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

F.A. No. 20 of 2004

Jayant Kumar Barik, S/o. Shri Rasik Kumar Barik, Aged about 31 years, R/o. Tumgaon, P.S. Tumgaon, Tahsil & District Mahasamund (C.G.).

---- Appellant

Versus

Smt. Deepanjali Barik, Aged about 27 years, W/o. Shri Jayant Kumar Barik, D/o. Shri Nirvachan Pradhan @ Dandhadhar Pradhan, R/o. Gram Jaramuda, P.S. Basna, Tahsil & District Mahasamund (C.G.).

---- Respondent

For Appellant : Mr. B.P.Sharma with Mr. Hari Agrawal, Advocates

For Respondent : Mr. Abdul Wahab Khan, Advocate

Hon'ble Shri Justice Goutam Bhaduri

JUDGMENT

28/08/2015

1. This appeal is against the judgment and decree dated 19.12.2003 passed by the Court of First Additional District Judge, Mahasamund, in Civil Suit No. 22-A/2001 whereby the suit filed by the appellant/ plaintiff seeking divorce under Section 13 of the Hindu Marriage Act, 1955 (*for short "the Act of 1955"*) has been dismissed.
2. (I). The petition with a prayer for divorce was preferred by the appellant/plaintiff husband *inter alia* on the ground that he was married to the respondent in the month of May, 1996 according to the Hindu rituals at village Jaramuda, P.S. Basna, District Mahasamund. After the marriage, appellant/plaintiff started living with the respondent. It was pleaded by the plaintiff that after the marriage, he went to his official place of posting at District Dantewada as he was in the police department

and after a period of time it came to his notice that his wife namely Deepanjali was suffering with mental disorder, which was concealed by the family members of the respondent before the marriage. It was further alleged that the respondent used to suffer mental disorder attacks, consequently, he used to tear off the official papers of the appellant/plaintiff and also used to talk nonsense and further when he used to try to console the wife, he was being abused. It was further alleged that the respondent used to attack the plaintiff and also tried to bite him. Thereafter, the plaintiff/ appellant by the acts of wife became confirmed that the wife was suffering with mental disorder. It was further alleged that after knowing the mental illness of the wife, the husband/ plaintiff used to be under fear to leave the wife alone. Consequently, she was taken to his house at village Mohka. This was also informed to the father of respondent wife and consequently she was treated by the father and uncle. It was further alleged that the family members of respondent started treating the respondent with *Jhad-Phunk* i.e. witchcraft and looking to it, the plaintiff/ husband took the wife to the Psychiatrist Doctor namely Dr. Prakash Narayan Shukla.

(II) It was further pleaded that further it came to the knowledge of plaintiff husband that his wife was suffering with the mental disorder before the marriage too. It was pleaded that despite all treatment the mental condition of wife did not improve and it further deteriorated. However, despite that the plaintiff husband tried to hold his family but eventually it failed. It is further stated that after some treatment, the respondent used to calm down for some period, however, the mental attack started repeating in short intervals. Few incidents have been quoted in the plaint of such behavior. It was further pleaded that for such reason wife was taken to the Psychiatrist and was being treated

continuously, however, it did not yield any positive result. It is further pleaded that in the month of September, 2000, the plaintiff was affirmed of the fact that despite the treatment, the wife could not come out of her mental disorder. It was further pleaded that while she was being treated at her matrimonial home when the plaintiff tried to take her back it was refused on some reason or the other. Thereafter, it led to the social meeting but eventually everything failed.

3. During pendency of this appeal, another application was moved by the plaintiff wherein the amendment is sought for in the plaint on the ground that when the reconciliation between the husband and wife failed, thereafter, a false report was made against the plaintiff and his family members by the respondent wife under Section 498-A of IPC. It is further contended that on such report, a criminal case was registered and charge sheet was filed before the Judicial Magistrate First Class, Mahasamund. Lastly by an order dated 10.09.2003, passed by the Second Additional Session Judge, the plaintiff along with family members were discharged of the charges from Section 498-A of IPC. In a result, it also leads to cruelty and on the basis of that, the plaintiff appellant is entitled for decree of divorce.
4. The respondent/defendant wife refuted the averments of the plaint allegation and it was stated that she was being ill-treated by the plaintiff / appellant and his family members. It was further stated that a false allegation of mental disorder was leveled against the respondent which was factually incorrect and the entire averments with respect to the mental disorder is false and fabricated. In the written statement, the amendment to the extent was also incorporated that for the ill-treatment and for demand of dowry on a report by the respondent /wife, a case under Section 498-A of IPC was registered. It was further contended that

she was discharging her matrimonial duty with all diligence and the plaintiff instead of mending his behavior has leveled false allegation on the wife. It was further averred in the written statement that the respondent wife was never treated by any Psychiatrist and entire averments of treatment and mental disorder is false. The wife further contended that she was subjected to forceful abortion by the husband, which resulted into a mental and physical anxiety and therefore the ground which is averred by the plaintiff/appellant/husband is baseless and therefore he is not entitled for the decree of divorce.

5. The trial Court after evaluating the facts and evidence, dismissed the suit filed by the husband for divorce. Hence this appeal by the husband.
6. Mr. B.P.Sharma assisted by Mr. Hari Agrawal, learned counsel for the appellant, would submit that the trial Court has failed to take into account the statement of the Doctor and various developments took place during the period of time of pendency of case. He would submit that the Doctor has categorically established the fact that the respondent wife was suffering from Paranoid Schizophrenia, therefore, the decree should have been passed under Section 13(1)(iii) of the Act of 1955. He would further submit that admittedly in this case false averments were made and continuous threats were extended and even a report under Section 498-A of IPC was also lodged against the plaintiff and his family members, but ultimately it resulted into acquittal. Consequently, leveling such false allegation would also amount to cruelty. He placed his reliance in **(2014) 7 SCC 640 & 2014 (13) SCALE 89** and would submit that once the allegation of false accusation are proved then in such case it gives rise to the ground of divorce on the ground of cruelty. He further submits that the documents filed before this Court under Order 41 Rule 27 of CPC is a certified copy of the acquittal order passed by the Session Court. The

order pertains to acquittal of the appellant and the family members, which establishes the false accusation made by respondent wife. He submits therefore it amounts to cruelty and accordingly divorce should have been granted under Section 13 of the Act of 1955 on the ground of cruelty also.

7. Per contra, Mr. Abdul Wahab Khan, learned counsel for the respondent, would submit that in the instant case the statement of the wife would reveal that she is mentally absolutely of sound mind. He would submit that according to the statement of the wife, the wife was subjected to forceful abortion, therefore, it led to anxiety, which was projected as mental disorder by husband. He further submits that if the wife is subjected to forceful abortion against her will and anxiety is shown, it cannot be termed to a mental disorder. He would further submit that the document on record, Ex.D-1, which is proved by the Doctor, purports that the mental condition of the wife was absolutely fine and therefore, the judgment and decree of the Court below is well merited.
8. I have heard learned counsel appearing for the parties, perused the pleadings and documents on record.
9. In the pleading made by the husband appellant, it is stated that the respondent wife is suffering with mental disorder and incidents have been narrated. It is further pleaded that the wife was subjected to treatment by the Doctor namely Prakash Narayan Shukla and specific averments of mental disorder and the acts committed by the wife are predominantly pleaded at para 2 to 6. In reply to it, the wife has completely disowned the fact that she was ever treated by any Doctor. She has refuted the entire averments made in this regard. Meaning thereby, it was suggested that she was not subjected to any treatment by any Doctor at any point of time. Now if the statement of the appellant husband is examined, he stated that after the marriage, her wife remained with him till four months

at village Mohka. Thereafter, after four months he left for his official place of posting at Tongapal. When he came back from Tongapal, he was informed about the unnatural behavior of his wife. Therefore, he subsequently took his wife to Tongapal wherein after 2-3 days, she started behaving unnaturally. Narrating the facts, it is stated that the wife used to abuse and used to tear off the official/ government papers and on being resisted she used to abuse her husband and tried to bite him. It is further stated at time she failed to put on the cloths and unnecessarily used to shout. It is stated for such reason, he took back her wife to village Mohka. It is further stated that she was thereafter taken by her maternal uncle for treatment and at that point of time, the plaintiff also went back for his job. It is further stated that after few months when he came back on holiday to his village, he took back her wife with him for 2-3 days. She remained normal at beginning but after some time again started behaving in the same fashion. It is further stated that lastly when she was taken to Doctor namely Prakash Narayan Shukla, who is a Psychiatrist at Raipur, the Doctor told him that the respondent wife is suffering is incurable mental disorder.

10. The document marked as Ex.P-1 pertains to a prescription of respondent and the document Ex.P-2 & P-3 are the certificate of Doctor which shows the ailment to be of Anxiety Neurosis of respondent. Likewise the document Ex.P-4 is a document of prescription of medicines. The documents are from 1997 to 2000. Therefore, it is proved that wife was being treated for a considerable period of time. As against this, when the statement of the wife is perused, she has stated that she was subjected to treatment at any time. She has further stated after marriage she remained with her husband for a month and thereafter, when she became pregnant, she was forcefully taken by the plaintiff and her

mother-in-law to some Doctor and forceful abortion was done. Thereafter, a girl child was born and died immediately after some time of her birth. She further narrates the incident of 1999-2000 about such abortion which was made. The allegations for cause of abortion is attributed to the plaintiff/ appellant that he was responsible for the same. In the cross examination of wife with respect to the abortion, it was admitted that no report was made to cause such forceful abortion by her. She also admits that when abortion was made known to the father and uncle of the respondent, it was not investigated and no report was made. At para 16 of the cross examination, she admits that when she was pregnant, Sonography was made by Dr. Vimal Chopda wherein it was advised that the infant in womb was not developed and therefore the abortion was done. No document have been placed on record or any evidence has been adduced on behalf of the respondent to show the fact that she was subjected to forceful abortion. On the contrary, it has been admitted that because of non development of child, abortion was done. So the accusation of forceful abortion on husband plaintiff is not proved rather it appears that false allegations were leveled.

11. In the written statement of the respondent, it is alleged that the respondent was subjected to cruelty by the plaintiff/ appellant and his family members for which a report having been made, the case under Section 498-A of IPC was registered. This fact is also corroborated at para 24 of her statement that a report was made, however, subsequently the appellant/ plaintiff and his family members have been discharged and acquitted of the charges.
12. Therefore, on the pleading and the evidence led by the parties, two question emerges out :

- (i) whether the respondent was suffering with mental disorder and for which the plaintiff was entitled for a decree ?
 - (ii) whether the report made by the respondent under Section 498-A of IPC wherein the plaintiff and the family members were acquitted would be a ground to claim a divorce on the ground of cruelty ?
13. In order to find out the answer whether mental disorder existed or not, the relevant document proved by the Doctor is perused. The oral testimony of Doctor was also examined. The plaintiff husband has averred the mental disorder of wife in it's pleading and in statement in so many words. The pleading and averments have been completely denied by the wife. Therefore, a reference is made to the statement of the Doctor, who was examined as PW-3 i.e. Dr. Prakash Narayan Shukla, a Psychiatrist. The Doctor PW-3 has stated that he had treated Deepanjali Barik respondent and has proved the Ex.P-1, which is a medical prescription. The said prescription is of 28.02.1997. Further, Ex.P-2 & P-3 is also proved wherein he admits that he had given the certificate to Deepanjali Barik that she was suffering from Anxiety Neurosis. Ex.P-2 is dated 27.06.1997 and Ex.P-3 is dated 19.09.2000. The another prescription is marked as Ex.P-4 which is of 19.09.2000.
14. The wife/ respondent in her pleading has completely disowned that she was ever treated by the Doctor for mental disorder. Reading the statement and perusal of Ex.P-1 to P-4 negates such evidence of wife. The Doctor has stated that while examining Deepanjali, the respondent, it was recorded in the Register and he found that she was suffering with uneasiness, insomnia, restlessness, dryness of mouth, palpitation, tremors in hands & feet and feeling of impending doom. He further stated that in such type of ailment, the patient do not behave properly and because of the mental instability the patient could not discharge the work

properly and always is under the fears of unliked by others. He further stated that by treatment, the patient may improve but if the mental instability grows up, the degree of ailment also grows up. The Doctor was confronted with the document Ex.D-1 in the cross examination. Ex.D-1 is a certificate which was given by the Doctor that the respondent had completely recovered of her ailment. The said document is of July, 2001.

15. After dismissal of the suit, during the pendency of this appeal, by an order dated 11.11.2005 this Court had directed that since the suit was based on the ground of mental disorder i.e. Schizophrenia, as such, taking into consideration all the facts and material present on record, an enquiry was directed by Court so as to know whether the respondent is capable to protect her interest despite mental infirmity alleged by the appellant. Therefore, the First Additional District Judge, Mahasamund, was directed to make an enquiry as to whether the respondent is capable to protect her interest, or not ? Pursuant thereto an M.J.C. No.5/2006 was registered by the First Additional District Judge, Mahasamund, wherein the Doctor Prakash Narayan Shukla PW-3 was again examined. First the Doctor was examined on 18.01.2003 in divorce case and in M.J.C. he was again examined on 15.02.2006. The Doctor in his statement has averred that he has treated Deepanjali from 28.02.1997 and according to the Register at Registration No.863 name of Deepanjali Barik, wife of Jayant Kumar was shown and the copy of such Register was also placed. He further stated that from 27.06.1997 to 19.09.2000, the certificate shows that the respondent wife was suffering from Anxiety Neurosis, thereafter, the certificate of 19.01.2002, which is marked as Ex.A-3 wherein it was stated that the respondent was suffering from Paranoid Schizophrenia. Meaning thereby in the year 2002, the respondent was a patient of Paranoid Schizophrenia. It is further stated

that even after the treatment of initial ailment, further it aggravated which turned into Paranoid Schizophrenia, therefore a certificate was given. He further stated that the said ailment is incurable. Narrating the nature of the patient, he stated that such type of patient speaks irrelevant facts and get aggravated and used to break up things and always remains in hallucination thinking that the out side people are against him, they hear so many voice in ear which are all imaginary.

16. In the cross examination the Doctor has not diluted any symptoms of ailment instead on a suggestion given, he further affirms that this type of patient is not able to take care of himself/herself and he further affirmed the fact that after such last certificate i.e. of 2002, he is not able to say that whether the patient is still being treated by him nor not ? The Doctor was confronted with Ex. D-1 where it he was admitted the same, which shows the patient has recovered. So reading the documents placed along with the statement of Doctor, the evidence has come on record to suggest that respondent wife was suffering from mental disorder. Thereby the averments of wife that she was not a mental patient at any point of time is negated. The Doctor has proved the fact that despite treatment of mental disorder, it did not cure and periodically the nature of ailment aggravated which continued whereby lastly in the year 2002 the ailment certificate of "Paranoid Schizophrenia" was affirmed by Ex.A-3. The trial Court by it's order dated 15.02.2006 passed an order in M.J.C. No.5/2006 sent back the enquiry ordered with a finding that respondent is suffering from incurable mental disorder of "Paranoid Schizophrenia".
17. The Doctor has narrated the type of symptoms of patient of Schizophrenia. The similar statement of nature of conduct has been narrated by the husband/ appellant. The Doctor has stated about the nature and behavior of the patient of Paranoid Schizophrenia which

normally reflected in a patient like-which is also corroborated by the husband that the wife used to tear off papers used, quarreled for any reason irritable, used to be restless, impulsive and at times she did not put on her cloths etc.

18. In Merriam-Webster Dictionary "Schizophrenia" has been described as a psychotic disorder characterized by loss of contact with the environment, by noticeable deterioration and the level of functioning in everyday life, and by disintegration of personality expressed as disorder of feeling, thought (as in delusions), perception (as in hallucinations), and behavior called also dementia praecox; Schizophrenia is a chronic, severe, and disabling brain disorder that has affected people throughout history.
19. National Institute of Mental Health, USA has described "Schizophrenia" in the following words :

"Schizophrenia is a chronic, severe, and disabling brain disorder that has affected people throughout history. People with the disorder may hear voices other people don't hear. They may believe other people are reading their minds, controlling their thoughts, or plotting to harm them. This can terrify people with the illness and make them withdrawn or extremely agitated. People with schizophrenia may not make sense when they talk. They may sit for hours without moving or talking. Sometimes people with schizophrenia seem perfectly fine until they talk about what they are really thinking. Families and society are affected by schizophrenia too. Many people with schizophrenia have difficulty holding a job or caring for themselves, so they rely on others for help. Treatment helps relieve many symptoms of schizophrenia, but most people who have the disorder cope with symptoms

throughout their lives. However, many people with schizophrenia can lead rewarding and meaningful lives in their communities.”

Some of the symptoms of schizophrenia are :

Positive symptoms

Positive symptoms are psychotic behaviors not seen in healthy people. People with positive symptoms often “lose touch” with reality. These symptoms can come and go. Sometimes they are severe and at other times hardly noticeable, depending on whether the individual is receiving treatment. They include the follow :

Hallucinations “Voices” are the most common type of hallucination in schizophrenia. Hallucinations include seeing people or objects that are not there, smelling odors that no one else detects, and feeling things like invisible fingers touching their bodies when no one is near.

Delusions – The person believes delusions even after other people prove that the beliefs are not true or logical. They may also believe that people on television are directing special messages to them, or that radio stations are broadcasting their thoughts aloud to others. Sometimes they believe they are someone else, such as a famous historical figure. They may have paranoid delusions and believe that others are trying to harm them.

Thought disorders – are unusual or dysfunctional ways of thinking. One form of thought disorder is called “disorganized thinking”. This is when a person has trouble organizing his or her thoughts or connecting them logically, a person with a

thought disorder might make up meaningless words, or “neologisms”.

Movement disorders – may appear as agitated body movements. A person with a movement disorder may repeat certain motions over and over. In the other extreme, a person may become catatonic. Catatonia is a state in which a person does not move and does not respond to others. Catatonia is rare today, but it was more common when treatment for schizophrenia was not available.

Negative symptoms

Negative symptoms are associated with disruptions to normal emotions and behaviors. These symptoms are harder to recognize as part of the disorder and can be mistaken for depression or other conditions. These symptoms include the following :

- * “Flat affect” (a person's face does not move or he or she talks in a dull or monotonous voice).
- * Lack of pleasure in everyday life.
- * Lack of ability to begin and sustain planned activities.
- * Speaking little, even when forced to interact.

20. In Modi's Medical Jurisprudence and Toxicology (24th Edn. 2011) the following varieties of Schizophrenia have been noticed :

Simple Schizophrenia the illness begins in early adolescence. There is a gradual loss of interest in the outside world, from which the person withdraws. There is an all round impairment of mental faculties and he emotionally becomes flat and apathetic. He loses interest in his best friends who are few in

number and gives up his hobbies. He has conflicts about sex, particularly masturbation. He loses all ambition and drifts along in life, swelling the rank of chronically unemployed. Complete disintegration of personality does not occur, but when it does, it occurs after a number of years.

Paranoid Schizophrenia, Paranoia and Paraphrenia – Paranoia is now regarded as a mild form of paranoid schizophrenia. The main characteristic of this illness is a well elaborated delusional system in a personality that is otherwise well preserved. The delusions are of a persecutory type. The true nature of the illness may go unrecognized for a long time because the personality is well preserved, and some of these paranoiacs may pass off as social reformers or founders of queer pseudoreligious sects. The classical picture is rare and generally takes a chronic course.

Paranoid schizophrenia, in the vast majority of cases, starts in the fourth decade and develops insidiously. Suspiciousness is the characteristic symptom of the early stage. Ideas of reference occur, which gradually develop into delusions of persecution. Auditory hallucinations follow which in the beginning, start as sounds or noises in the ears, but become fixed and definite, to lead the patient to believe that he is persecuted by some unknown person or some superhuman agency. He believes that his food is being poisoned, some noxious gases are blown into his room and people are plotting against him to ruin him. Disturbances of general sensation give rise to hallucinations, which are attributed to the effects of hypnotism, electricity, wireless

telegraphy or atomic agencies. The patient gets very irritated and excited owing to these painful and disagreeable hallucinations and delusions.

Since so many people are against him and are interested in his ruin, he comes to believe that he must be a very important man. The nature of delusions thus, may change from persecutory to grandiose type. He entertains delusions of grandeur, power and wealth, and generally conducts himself in a haughty and overbearing manner. The patient usually retains his money and orientation and does not show signs of insanity, until the conversation is directed to the particular type of delusion from which he is suffering. When delusions affect his behaviour, he is often a source of danger to himself and others.

The name paraphrenia has been given to those suffering from paranoid psychosis who, in spite of various hallucinations and more or less systemized delusions, retain their personality in a relatively intact state. Generally, paraphrenia begins later in life than the other paranoid psychosis.

Schizo Affective Psychosis – Schizo affective psychosis is an atypical type of schizophrenia, in which there are moods or affect disturbances unlike other varieties of schizophrenia, where there is blunting or flattening of affect. Attacks of elation or depression, unmotivated rage, anxiety and panic occur in this form of schizophrenic illness.

Pseudo-Neurotic Schizophrenia – schizophrenia may start with overwhelmingly neurotic symptoms, which are so

prominent that in the early stages, it may be diagnosed as neurosis. When schizophrenia begins in an obsessional personality, it may for a long time remain disguised as an apparently obsessional illness.

21. It would be pertinent to observe that except a bald statement by the respondent that she was not a patient of mental disorder, it has been negated by the documentary evidence which is proved by the Doctor. Neither the uncle of the respondent nor father was examined to establish that at any point of time she was not subjected to mental treatment. Only the respondent had examined herself before the Court and none other. Therefore, in the opinion of this Court, the trial Court has failed to appreciate the uncontroverted evidence of the appellant who had proved the case by examination of the Doctor as also himself wherein both the statement corroborated each other with respect to the mental disorder. It has been established beyond the doubt by the Doctor who has deposed as a witness and brought the record of the treatment that the respondent is suffering from Paranoid Schizophrenia. The ground for grant of divorce on the plea of mental insanity or mental disorder is different than cruelty. Therefore, apart from the other facts, in my opinion, the appellant was able to prove the fact that the respondent was suffering from Paranoid Schizophrenia as a mental disorder which entitles him to get a decree of divorce.
22. The other aspect in this case which comes for consideration is that the respondent in his written statement has averred that the plaintiff appellant and his family members are tried in a case under Section 498-A of IPC on the report made by the respondent. This statement is also corroborated in the statement of respondent at para 24 wherein she admits that the plaintiff and his family members were subsequently

acquitted of the charges under Section 498-A of IPC. Though, the allegation of cruelty for forcefully abortion has been stated but the same facts do not find support by any documentary evidence. On the contrary, the respondent had stated that when she became pregnant in the year 1999, at that time, after the report of Sonography it was found that the infant/child was not developed in the womb therefore abortion was carried out. It is also stated that at that time, she was with her husband. She also stated that the abortion was also disclosed to her father and uncle. The appellant has filed before this Court an application under Order 41 Rule 27 of CPC and placed on record the order dated 10.09.2003 which is a certified copy of the order passed in criminal revision No.221/2003. In the said criminal revision, six applicants were tried i.e. the appellant alongwith other family members. Reading of the order would show that the charges framed by the Judicial Magistrate against these applicants in the criminal case on a report made by the respondent under Section 498-A of IPC was set aside. The Court further in its judgment has observed that the report made by Deepanjali i.e. respondent was found to be false, consequently, acquitted the appellant and the family members.

23. Along with such application, an amendment has also been sought wherein the appellant has sought for to raise a ground of cruelty on the premise that a false report having been made to inculcate the appellant and the family members therefore it leads to cruelty. Reading of the amendment application sought along with document proposed to be filed before this Court under Order 41 Rule 27 of CPC would show that the appellant has sought to file the certified copy of the order of criminal case wherein they were acquitted of the charges under Section 498-A of IPC. The complainant in that case was the respondent.

24. During the course of submission before this Court that fact has not been denied that the appellant and the family members have been acquitted, therefore, considering the contents of such order since the appellant has also raised a ground of cruelty, it is felt that pronouncing a judgment in absence of such evidence would result in defective decision and to pronounce the effective judgment, admission of such evidence is necessary. Therefore, the said documents are admitted in evidence which is a certified copy of the order of the criminal case. Thus, the authenticity of the same having not been under any challenge, the same is accepted. The amendment sought for under Order 6 Rule 17 of CPC is also allowed whereby the appellant has sought to raise additional ground of cruelty on the ground that the appellant and his family members were falsely inculpated on a report made by the respondent. The procedural amendment to be carried out in plaint within a further time of a week of the order.
25. The Hon'ble Supreme Court in case of ***Malathi Ravi, M.D. v. B.V.Ravi, M.D.*** reported in ***(2014) 7 SCC 640*** has observed that initiation of a false and vexatious criminal proceeding under Section 498-A of IPC against the husband and family members by the wife can be considered to be a mental cruelty. The Court observed that mental cruelty and its effect cannot be stated within arithmetical exactitude. It varies from individual to individual, from society to society and also depends on the status of the persons.
26. The facts would lead to drawn the inference in this case that the order of the revisional Court would show that the husband and family members of the husband have been acquitted of the charges under Section 498-A of IPC. The wife in her statement has maintained her stand that she was harassed for dowry which also continued in her statement before the

Court. Therefore, as has been held in **2014 (13) SCALE 89** in between **K. Srinivas v. K. Sunita** that if a false criminal complaint is preferred by either spouse, it would invariably and indubitably constitute matrimonial cruelty, such as would entitle the other spouse to claim a divorce. In a case in hand, the wife has vehemently contended that she was subjected to cruelty by the husband and his family members for demand of dowry, which has been proved to be wrong. Considering the fact that the false criminal complaint was made, such complaint would be sufficient to constitute matrimonial cruelty to the husband appellant, accordingly, this Court dissolve the marriage of the parties under Section 13(1)(ia) of the Act of 1955.

27. As has been observed hereinabove, the marriage between the parties is dissolved and reading of the evidence would show that the respondent wife is non-working and has no sufficient means of livelihood. Therefore, despite the fact the application has not been preferred under Section 25 of the Act of 1955, the application of Section 25 is interpreted in a boarder view and though application to claim alimony has not been applied in a strict sense it can not be held that in absence of any application for maintenance and permanent alimony no alimony can be awarded. The provisions of Section 25 of the Act of 1955 have been introduced for the purpose of protecting the interest of spouse against whom the Court has passed the decree. Consequently, to the spouse, the respondent/wife, the society and law would not afford to see such spouse seeking sanctuary on the streets or would be at the doors of others for her livelihood. Therefore, taking into the facts, in order to enable the spouse-wife to have financial support to lead her life with dignity, in the opinion of this Court, it would be appropriate to grant a

consolidated permanent alimony of Rs.5 Lakhs as against the offer made by the appellant of Rs.2 Lakhs during the course of argument.

28. Therefore, it is directed that the appellant shall pay an amount of Rs.5 Lakhs to the wife as a permanent alimony as one time settlement in order to avoid the spouse-wife to wait for monthly maintenance during her life time. The amount of Rs.5 Lakhs shall be further deposited within a period of 6 months from the date of this order and till the amount of Rs.5 Lakhs is deposited, an amount of Rs.3500/- should be paid as permanent alimony per month to the wife.
29. In view of the aforesaid discussion, it is held that the judgment and decree of the learned trial Court cannot be sustained. Accordingly, the marriage in between appellant & respondent is dissolved under Section 13(1)(ia) and 13(1)(iii) of the Hindu Marriage Act, 1955. It is further observed that permanent alimony of Rs.5 Lakhs shall be deposited by the appellant within a period of 6 months from the date of this order and till the amount is deposited, the appellant shall be required to pay Rs.3500/- per month to the wife by way of permanent alimony.
30. The decree be drawn accordingly. No order as to cost.

Sd/-
(Goutam Bhaduri)
Judge